

Resolution of Senior Executive Committee
April 15, 1994

Resolution

EPA and CDH did not act arbitrarily and capriciously in requiring DOE to develop and implement a Surface Water Management IM/IRA to regulate discharges from surface water ponds, control discharges of hazardous wastes and hazardous substances into surface water ponds and require DOE to develop off-channel spill control and treatment capacity.

As part of this resolution, the Senior Executive Committee agrees to the following

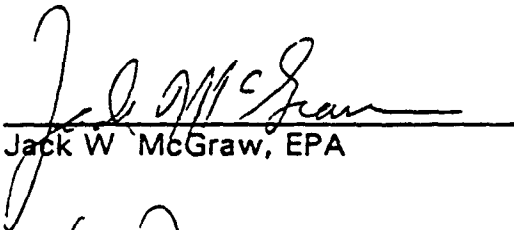
- 1 Nothing in this Pond Water IM/IRA shall be construed to affect any formal or informal appeal, elevation, consultation, or challenge by DOE pursuant to administrative appeal provisions in the Code of Federal Regulations or other formal or informal mechanisms, as applicable, with respect to any NPDES permit concerning discharges at Rocky Flats.
2. The parties agree that the Pond Water IM/IRA administrative controls established in Paragraphs ___ shall not become effective until the NPDES controls (established in the current NPDES permit) are no longer in effect in the new NPDES permit. The Pond Water IM/IRA administrative controls will apply to pond water management at Rocky Flats downstream of the outfalls as specified in the new NPDES permit.
- 3 The parties agree that extreme or prolonged precipitation events may result in water levels that threaten the integrity of the dam structures. If such climatic circumstances should occur, DOE will implement alternative water management practices, as incorporated in the Pond Water IM/IRA, to maintain the safety and security of the dam structures. When a situation arises that requires DOE to take action, DOE will notify CDH and EPA prior to taking any action.
- 4 The alternative water management practices established by the parties shall be incorporated into the Pond Water IM/IRA. The parties agree to specify within the Pond Water IM/IRA when alternative water management practices (e.g. controlled volume releases) will be used, what those water management practices (e.g. controlled volume releases) will be, and how and when EPA and CDH will be notified of the implementation of the alternative water management practices. In addition, the parties agree to specify within the Pond Water IM/IRA a protocol to characterize, pursuant to RCRA and CERCLA, and, if necessary, to remediate releases into the environment resulting from the use of alternative water management practices.

ADMIN RECORD

5. The parties agree such alternative water management practices incorporated within the Pond Water IM/IRA are consistent with and in compliance with the IAG and other environmental regulatory requirements
- 6 All parties reserve any and all rights and defenses they may have under the IAG including, but not limited to, pursuing additional CERCLA or RCRA actions. .

In addition the Senior Executive Committee agrees that

- a. The IM/IRAs for leachate collection and the Pond Water IM/IRA shall be submitted to EPA and CDH within six months,
- b DOE will develop and propose an IAG milestone for spill control within three months,
- c Penalties associated with this dispute are hereby waived, and
- d It is the intent of the Parties that best efforts will be made to release the Pond Water IM/IRA for public comment concurrent with public comment of the draft NPDES permit



Jack W McGraw, EPA

4/15/94
Date



Thomas P Looby, CDH

4/15/94
Date



Mark N. Silverman, DOE

4/15/94
Date